



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 26, 2019

Ms. Emily Harville  
Northlake Police Department  
1400 FM 407  
Northlake, Texas 76247

OR2019-17549

Dear Ms. Harville:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 772012 (ORR R19-0152).

The Northlake Police Department (the "department") received a request for body worn and dashboard camera recordings, including those belonging to specified officers, pertaining to a specified accident. You state you do not have information responsive to a portion of the request.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>2</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we note some or all of the requested information was the subject of a previous request for a ruling from this office, as a result of which this office issued Open Records

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>Although you do not cite section 552.108 of the Government Code in your brief, we understand you to assert this exception based on your arguments.

Letter No. 2019-04589 (2019). We have no indication the law, facts, or circumstances upon which the prior ruling was based have changed. Accordingly, to the extent the requested information is identical to the information previously requested and ruled upon, the department must continue to rely on Open Records Letter No. 2019-04589 as a previous determination, and withhold or release the previously ruled upon information in accordance with it.<sup>3</sup> *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the information we have indicated is not encompassed by the prior ruling, we will consider the exception you raise.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 (1986). You state the information at issue pertains to a criminal investigation that did not result in conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to the information at issue. Accordingly, the department may withhold the information we have indicated under section 552.108(a)(2) of the Government Code.

In summary, the department must continue to rely on Open Records Letter No. 2019-04589 as a previous determination and withhold or release the information at issue in accordance with that ruling. The department may withhold the information we have indicated under section 552.108(a)(2) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<sup>3</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Erin Groff". The signature is written in a cursive, flowing style.

Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/gw

Ref: ID# 772012

Enc. Submitted documents

c: Requestor  
(w/o enclosures)